



COUNCIL AGENDA: 00-00-00

ITEM: xx

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Tom Manheim

**SUBJECT: IMPLEMENTATION OF
PHASE I OPEN GOVERNMENT
INITIATIVES**

DATE: 02/25/09

Approved

Date

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

RECOMMENDATION

Receive report on implementation of Phase I of the City's Open Government (Sunshine Reform) initiatives.

OUTCOME

This report provides information regarding the status of the Phase I Open Government initiatives as directed by the Council.

BACKGROUND

In August, 2007, the City Council approved a number of Sunshine Reform Task Force (SRTF) Phase I recommendations relating to Public Information and Closed Session. Council directed Staff to proceed with implementation on a pilot basis. Council also directed Staff to continue gathering feedback concerning Public Meeting recommendations from other potentially affected entities and then report back to the Rules and Open Government Committee (ROGC).

In June, 2008, the City Council approved the remaining Phase I recommendations for Public Meetings and Closed Session items and directed staff to implement these on a pilot basis, as well. Council also directed Staff to report implementation status of Phase I implementation in January of 2009. This memorandum is in response to that direction. Due to the workload associated with bringing other SRTF recommendations to ROGC, this status report was delayed beyond the anticipated January timeframe.

ANALYSIS

Agenda Packet Contents. The Phase I Open Government requirements include a new definition of "Agenda Packet." Packets must now contain copies of any contracts, resolutions, or ordinances in substantially final format that are to be considered at a public meeting. A period of "soft" implementation began in November to permit adjustments through the end of the year.

“Hard” implementation began in January and will continue during the one-year pilot period. Staff is tracking any delays associated with the new requirements and will report back in the spring.

Public Meeting Requirements. New public meeting requirements for Council, Council Committees, and City boards, commissions, and other advisory entities include on-line posting of agenda and meeting materials, deadlines for the postings, and a requirement for audio or video recording of meetings. While the City has a long history of posting agenda items online for City Council and Council Committee meetings, the new requirements extend this obligation to all of the City’s boards, commissions and other advisory boards. Implementation of these new requirements has begun on a pilot basis following training for staff liaisons. Of the 43 entities covered by the new requirements, all are posting agendas online and meeting the new deadlines. All but three – the two Retirement Boards and the Bicycle and Pedestrian Advisory Committee – are also providing links within their agenda to referenced documents. The two Retirement Board websites are “hosted solutions,” where services are provided under contract by an outside vendor. The current contract does not allow for the addition of the links. Staff is working with the Department on a solution and expects to have the links implemented this spring. The Bicycle and Pedestrian Advisory Committee was not adding the links due to a misunderstanding of the requirements, but will begin adding the links at its next meeting.

Audio Recording of Closed Sessions. Council approved the audio recording of real estate negotiations for purposes of preparing and releasing a redacted transcript upon request if a Brown Act violation has been alleged. Appropriate recording equipment was purchased and this requirement was fully implemented in 2008.

Release of Oral Information. The requirement that each department or office must designate a Staff member to coordinate responses to requests from the public for information and record, “including oral information,” has been City policy since 2004 and is fully implemented.

Public Calendars for City Officials. The requirement for the Mayor, Councilmembers and their chiefs of Staff, the City Attorney, the City Manager, and the City Clerk, to maintain and post on-line public calendars of their appointments has been fully implemented. The online calendar was first initiated in September of 2006. Staff has provided a number of group and individual trainings to assist in compliance with this requirement. Another calendaring requirement extends to City department heads who are required to maintain public calendars and make them available upon request. This requirement has also been implemented.

Community Engagement Process. Staff has developed a draft guidance policy outlining the new requirements for engaging the community when significant Citywide policy actions are contemplated. Training has been provided to executive level City staff. The Community Engagement Process has been implemented twice as a part of the City’s annual budget process. The process mandates a highly prescriptive outreach mechanism. Staff is evaluating whether changes to the process might allow more flexibility in determining how best to reach stakeholders while reducing costs. If any changes are recommended, significant outreach to community stakeholders will be completed prior to bringing recommendations to the City Council.

City Lobbyist Requirements. The requirement that the City Clerk post a direct link on the City’s web site to State and Federal disclosure forms filed by City lobbyists has been implemented. The requirement for contracts with City lobbyists to contain language prohibiting

fund-raising for Mayor and/or City Council, candidates to City office, or City officials has also been accomplished. City Staff who engage in lobbying efforts have been directed to refrain from lobbying for any state or federal legislation that would restrict public access to government records, information, or meetings. They have also been directed to seek exemptions from this requirement only when it is clear that the proposed access restrictions are appropriate and will not prevent access to information that should be subject to disclosure.

Cost/Benefit Studies. On April 4, 2007, Council approved recommendations from Staff to establish a pilot program to conduct six Cost/Benefit Studies for projects, activities, and events seeking public funding of \$1 million or more. On August 28, 2007, Council modified the pilot project to incorporate Task Force recommendations regarding what information should be included in Cost/Benefit Studies conducted under the pilot program.

The recently released cost-benefit analysis of the Convention Center expansion is the sixth and final analysis of the Council-adopted Cost-Benefit Analysis Pilot Program. The six analyses conducted during the Pilot Program included: BEA (SJRA: February 2007), Airport West (OED: February 2008), Tesla Motors (OED: September 2008), Brocade Communications (SJRA: November 2008), San Pedro Square (SJRA: November 2008), and Convention Center (OED: January 2009). Staff is currently evaluating the results of the Pilot Program, including costs and effectiveness, and expects to report back with recommendations to the City Council by early April.

EVALUATION AND FOLLOW-UP

Staff is evaluating the effectiveness of the new meeting requirements by tracking public attendance and participation at meetings of boards, commissions and other advisory bodies. We expect to report back to City Council regarding progress of the Phase I initiatives early in the next fiscal year.

PUBLIC OUTREACH

Not applicable.

COORDINATION

This report has been coordinated with the Offices of the City Attorney and of the City Clerk.

CEQA

Not applicable.

TOM MANHEIM
Director of Communications

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